

REMARKS

In the Official Action mailed on July 13, 2005, the Examiner rejected claims 1, 3 – 7 and 9 under 35 U.S.C. 102(b) as being anticipated by Griffin et al. Claims 1, 3 – 10 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kapsy. Claims 2, 11 – 17 and 19 – 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kapsy in view of Steiner and in view of Gregory. Claims 8, 10 and 18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al. in view of Kapsy. Claims 2, 11 – 17 and 19 – 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al. in view of Kapsy and further in view of Steiner and in view of Gregory.

As shown above, claim 1 has been amended to specifically describe the relationship between the outer edge of the flange and the radially innermost portion of the thread structure. In addition, this relationship is described as resulting in the flange being retained in position relative to the cap by the thread structure. Furthermore, claim 1 has been amended to specifically describe the vent as comprising a slot formed in the inner surface of the generally cylindrical side portion of the cap and the inner surface of the top portion of the cap.

With respect to the limitation relating to the relationship between the flange and the thread structure, applicant respectfully directs Examiner's attention to Figure 3 which is a section view of the subject invention. As is clearly shown in Figure 3, the outer circumferential edge of the flange 28 extends in a radially outward direction beyond the radially innermost portion of the thread structure 40. This relationship serves to maintain the position of the cup member 26 within the body of the cap 20. Removal of the cup member 26 from the cap 20 requires a sufficient force to deform the flange 28 so that it can pass the innermost ridges of the thread structure 40.

With regard to the other change to claim 1, relating to the vent, applicant respectfully directs Examiner's attention to the illustrations of Figures 3 – 5. The vent 50 is clearly shown extending through a portion of the inner surface 52 of the top portion 22 of the cap 20 and also through the thread structure 40 within the inner surface of the generally cylindrical side portion 42 of the cap 20.

Applicant respectfully contends that these changes clearly distinguish the subject invention from the cited references, whether taken individually or in combination with each other.

Claim 10 has been amended, as shown above, to describe the relationship between the flange and the radially innermost portion of the thread structure. This relationship is described as resulting in the flange being retained in position within the cap.

Claim 18 has been amended, as shown above, to describe the flange as being retained in position within the cap by the radially innermost portion of the thread structure. In addition, claim 18 has been further limited by the description of the vent which comprises the slot formed through the thread structure in the inner surface of the generally cylindrical side portion of the cap and the inner surface of the top portion of the cap.

The patents cited by the Examiner each have distinctly different elements and characteristics from each other and from the subject invention. For example, the Griffin patent, for example, requires the dome 16 to permit gases to flow through the cap structure. The subject invention, on the other hand, facilitates this function by the vent structure which is formed in the cap itself along the inner cylindrical wall, through the threads, and along the upper internal wall of the cap. As a result, the Griffin et al. patent teaches directly away from the vent configuration of the subject invention by teaching an alternative and significantly different way of accomplishing this function (i.e. the dome structure).

The Kapsy patent neither teaches nor suggests the removable cup member of the subject invention or the vent passage formed in the internal walls of the cap.

Similarly, the Steiner patent does not teach the vent passages formed in the internal cylindrical and top surface walls of the cap. The Steiner patent also does not suggest the provision of a removable cup member to contain the fibrous filter material.

The Gregory patent does not teach or suggest the provision of the removable cup member, the venting passageway formed in the inner surfaces of the cap, or the use of the fibrous material.

Applicant respectfully contends that the Examiner has used the subject patent application as a guide to search the prior art for each individual characteristic or component of the subject invention. As a result, four references have been found, and cited in the rejections of the subject invention, which bear little similarity to each other except for the fact that they each conveniently

show individual concepts or components that the Examiner has combined without any apparent basis for doing so. None of these four references indicate an advantage from combining the characteristics or features of the other references. In addition, none of the cited patents appear to recognize an advantage that might be achieved by such a combination with one or more of the  
5 other references.

This selective picking and choosing of a group of disparate prior art patents, through the use of the subject patent application as a guidebook, is evident by the fact that some of the rejections combine three unrelated patents in a rejection of the subject invention which only comprises four components. In addition, the teachings of the four cited patents are combined  
10 without any description of why any of these references would suggest such a combination. The Examiner recognized that the Kapsy patent does not teach a slot in the inner surface of the cylindrical side wall. Applicant respectfully contends that this lack of a teaching is because the Kapsy device does not require a slot and would not benefit from a slot. However, needing to find some reference showing a slot, the Examiner selected the Steiner patent which is unrelated  
15 to the Kapsy patent except for the fact that it conveniently shows a groove. Then, the Examiner concludes that it would be obvious to add a groove from the Steiner patent to the structure of the Kapsy patent which, as mentioned above, does not need a groove or slot to perform its function. In addition, the Examiner concludes that a benefit could be realized in the Kapsy device, even though the Kapsy patent does not appear to recognize the need for such a benefit, by combining  
20 both Steiner and Gregory and then modifying the Kapsy patent accordingly. In doing so, the Examiner combined the unrelated teachings of the Kapsy, Steiner, and Gregory patents to show that the venting means of the subject invention was obvious. Applicant respectfully contends that this combination, which is not motivated by the teachings of any of the three individual patents, is improper and should be withdrawn.

25 In the rejection described in paragraph 5 of the Official Action, the Examiner states that Kapsy does not teach a foam filler. The Examiner then combines Steiner with Kapsy to reach this combination. Applicant respectfully points out for Examiner's consideration that the Kapsy patent actually does teach the use of a material 24 which is described as a polyurethane foam that is referred to in the Kapsy specification as a "fibrous" material. Notwithstanding this fact,  
30 applicant respectfully contends that the presence of the foam within the cap is not, by itself, a

novel concept. However, the manner in which the cup member disposes the foam material within the cap in relation to the vent is not shown in any of the patents cited by the Examiner.

The only way that the Examiner has been able to construct a basis to reject the claims of the subject patent application is to use the subject patent application as an instruction book with which to search the prior art for individual components or features of the subject invention found in individual patents. Then, the Examiner combined these patents without any basis or support contained in the patents that would suggest or motivate one skilled in the art to make the combination. Applicant respectfully contends that this procedure is improper and the rejections based on that procedure should be withdrawn.

Applicant intends to provide formal drawings after receipt of the Notice of Allowance to replace the originally filed drawings which, although determined by the Examiner to be suitable for prosecution, are informal.

In view of the changes made to the claims of the subject patent application and in further view of the above discussion, applicant respectfully requests Examiner's reconsideration of the subject patent application and expeditious allowance of claims 1 and 3 – 20.

Respectfully Submitted,

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